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Summary record of the 2177th meeting
Held at Headquarters, New York, on Monday, 22 March 2004, at 3 p.m.

Chairperson: Mr. Amor

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04-34813 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Initial report of Uganda (CCPR/C/UGA/2003/1, CCPR/C/80/UGA; HRI/CORE/1/Add.69)

1. *At the invitation of the Chairperson, the delegation of Uganda took places at the Committee table.*

2. **Mr. Butime** (Uganda), introducing the initial report (CCPR/C/UGA/2003/1), said that for nearly 30 years human rights violations had been perpetrated by the Governments in power in his country, but that with the accession to power of the National Resistance Movement in 1986, respect for democracy and good governance had been rebuilt and the observance of human rights made a priority. One of the first steps was to establish a Commission of Inquiry into human rights violations by public officials since the 1960s. In addition, Parliament, the judiciary, the Uganda Human Rights Commission and elements of civil society had been monitoring the human rights situation.

3. The Covenant had been ratified in 1995 and a new Constitution had been adopted, chapter 4 of which contained a bill of rights. The Constitution incorporated most of the provisions of the Covenant, guaranteeing rights such as equality and freedom from discrimination (art. 21 of the Constitution); the right to life (art. 22); the right to personal liberty (art. 23); protection from torture, cruel, inhuman or degrading treatment or punishment (art. 24); protection from slavery (art. 25); the right to a fair trial (art. 28); and the rights of freedom of conscience, expression, movement, religion, assembly and association (chapter 4).

4. Since the Government was now providing technical training in reporting techniques, he was confident that subsequent periodic reports would be submitted on schedule. In preparing the initial report, the Government had consulted with civil society organizations and had held an open debate with Members of Parliament, the diplomatic corps and non-governmental organizations. The Uganda delegation welcomed a dialogue with the Committee.

5. **The Chairperson**, expressing appreciation for the Government's efforts despite the delay in submitting its report, invited the delegation to address the list of issues (CCPR/C/80/L/UGA).

Constitutional and legal framework within which the Covenant is implemented (art. 2 of the Covenant)

6. **Ms. Zaale** (Uganda), referring to question 1 on the list of issues, said that since 98 per cent of the provisions of the Covenant had been incorporated into domestic law in chapter 4 of the Constitution, the Covenant implicitly had the force of law in Uganda even though it had never been directly invoked in the courts. The Uganda Human Rights Commission, however, had invoked some Covenant provisions in adjudicating complaints brought before it — as, for example, in a year 2000 complaint of torture in which the Commission's tribunal had cited article 7 in its finding against the Attorney-General.

7. **Mr. Kamya** (Uganda) said that, as part of the Government's efforts to combat official impunity for human rights violations and effectively prosecute guilty officials (question 2 of the list of issues), victims could seek redress either in the criminal courts or in the quasi-judicial tribunal of the Uganda Human Rights Commission, which also had wide powers. All public bodies, moreover, had internal disciplinary units which provided appropriate sanctions.

8. **Ms. Tindifa Mirembe** (Uganda) referred to access to legal services (question 3), and said that the majority of indigent victims of human rights violations had recently been bringing their complaints to the Uganda Human Rights Commission tribunal. Under the Advocates Amendment Act 2002, all advocates in Uganda were required to handle three pro bono cases each year as a prerequisite for certification as practising lawyers. Currently, a total of 275 pro bono cases were being handled annually, but the number would definitely increase when the Act was fully implemented and extended to all law firms. Also, a baseline survey was being conducted by a number of the member organizations of the Legal Aid Service Providers association aimed at increasing the coverage of legal aid services country-wide.

9. Furthermore, the Chain Linked Initiative — a network of all institutions involved in the court system — had been introduced to ensure speedy trials. The police force itself had set up a human rights and complaints desk and a childcare and family protection unit to deal specifically with human rights violations,

especially in the case of those who could not afford legal services. The police force had also introduced a community policing programme aimed at raising human rights awareness on the part of both police officers and members of the public. Under the programme, the police were authorized to conduct spot checks of prison cells in order to monitor human rights standards in prisons.

10. The Community Service Act 2000 had greatly improved the quality of justice for the poor. It empowered courts to provide community services for victims of violations. Moreover, the Penal Code Amendment Bill 2004 stipulated that compensation should be awarded to underage victims of sexual crimes.

11. In answer to question 4, she said that the Commission of Inquiry into violations of human rights (report, para. 31-38), founded in 1986 to investigate all aspects of human rights violations, breaches of the rule of law and abuses of power by government officials between 1962 and 1986, had begun that same year to investigate the mass murders and incidents of arbitrary deprivation of human life that had occurred; the many arbitrary arrests, detentions, imprisonments and abusive detentions under national security legislation; the denials of fair trials; the incidents of torture or cruel, inhuman or degrading treatment; the abuses of power by law enforcement agents and State security organs and any attendant human rights violations; mass displacements and expulsions of persons and consequent disappearances; discriminatory treatment of any kind by public officials in the application of the laws or in the performance of their functions; the denial of any other fundamental rights and freedoms under chapter 3 of the Constitution; and the shielding of perpetrators from due process of the law.

12. In the course of its work, the Commission had made recommendations for restoring order and preventing a repetition of Uganda's turbulent history, and many of those recommendations had been included in the 1995 Constitution notably, the establishment of a permanent human rights commission with power to investigate and provide redress for victims, and the enactment of a complete bill of rights and mechanisms of enforcement. Although the Commission had recommended taking action against past human rights violations, the general feeling was that its exposure of the perpetrators sufficed and that national reconciliation should take precedence over vengeance and punishment.

13. **Mr. Kakooza** (Uganda) said that the Uganda Human Rights Commission (question 5), established under the 1995 Constitution, had powers to hear complaints of human rights violations, which were comparable to the powers of the High Court. Its chairperson had the status of a high court judge and the other members were experts in the law or in general administration. The Commission had the authority to hear and investigate individual complaints and award damages. The orders to award compensation were enforced in the same manner as court orders. There were various departments within the Commission, among them a department to inform the public of its work and its complaint procedure and a research department. The Commission could also make recommendations to the Government regarding the need to comply with international human rights instruments and could advise the Government to ratify them. The resources of the Commission came from government funds, which covered salaries and operating expenses, and also from outside donors.

14. **Mr. Ssonko** (Uganda), referring to the compatibility of Uganda's counter-terrorism measures with the Covenant (question 6), said that the 2002 Anti-Terrorism Act, although it had been received with mixed feelings by some non-governmental organizations, had greatly helped to reduce the high rate of terrorist activities and violent crimes that had rocked the capital city between 1998 and 2000 and resulted in numerous deaths. Addressing the problem of terrorism did not call for a soft hand. The Government was dealing with terrorism through its Joint Anti-Terrorism Task Force, which comprised the Internal Security Organization, the External Security Organization, the police force, the Chief of Military Intelligence and the army. Suspected terrorists were currently being tried by general court martial.

Gender equality and prohibition of discrimination (arts. 3 and 26 of the Covenant)

15. **Mr. Kacwa** (Uganda), commenting on the advancement of women in the public and private sectors (question 7), pointed out that since 1995 a gender-sensitive Constitution had done much to increase their participation in all spheres of life. There were specific constitutional provisions on affirmative action, national objectives and principles of State

policy pertaining to women and gender and a ruling made by the Attorney General in 2002 had helped to achieve mainstreaming gender balance in filling government posts. Special arrangements had been made for apportioning seats for women in Parliament, and it was mandatory for at least one third of local government posts to be filled by women. In the private sector, women were increasingly active in the microfinancing industry and most of the recipients of microcredit were women. The Government also had a gender-sensitive policy and plan of action which aimed to empower women to participate in greater numbers in the country's development.

16. **Mr. Kakooza** said that among the traditional, historical, cultural or religious practices that contravened the Covenant (question 8), were the "bride price", polygamy, female genital mutilation, the inheritance of a widow by the late husband's brother, property inheritance, age of marriage and consent to marriage. Since they came under personal law, those contraventions were difficult to abolish by decree; polygamy, for example, was tolerated under Islamic law as well. Legislation to some extent had sought to minimize their effect on the social and economic life of the country and especially on women. A Domestic Relations Bill currently before Parliament was intended to reconcile the statutory, customary and Islamic legal systems by encouraging monogamous marriage, establishing stricter conditions for polygamous marriages and eliminating the bride price as a requirement for marriage under any system. The bill was aimed at making the inheritance of a widow unlawful, guaranteeing equal property rights to men and women in marriage and setting the age of marriage at 18 and providing that the union must be consensual.

17. Referring to question 9 on the list of issues, he said that, other than general prohibitions of violence and torture in the Constitution, the Penal Code and the law of torts, Uganda had no specific legislation about domestic violence. The Uganda Law Reform Commission and the Ministry of Gender, Labour and Social Development were drafting domestic violence legislation for submission to the Government in 2005.

18. **Mr. Kacwa** (Uganda), referring to question 10 on the list of issues, said that the Constitution provided a legal framework for eradicating female genital mutilation. Through the Ministry of Gender, Labour and Social Development, the Government was executing sensitization and advocacy programmes and was providing support to REACH, a local non-governmental organization (NGO) which found alternative employment for former practitioners of circumcision. Another NGO, Hope after Rape, counselled female victims of rape. Additionally, local communities were educated on the health problems associated with female genital mutilation. Generally speaking, the 1997 National Gender Policy established the institutional framework and mandate for addressing gender-related imbalances in all spheres. Support was being given, in particular, to efforts under the Domestic Relations Bill to establish gender equality and discourage such harmful traditional practices. His Government condemned female genital mutilation as a form of violence against women that was tantamount to torture. Efforts to prevent it, however, were impeded by culture, poverty, attitudes and lack of information.

19. Turning to question 11 on the list of issues, he said that, as a result of affirmative action measures in the public universities of Mbararaa and Makerere, female enrolment had increased from 30 per cent in the early 1990s to 47 per cent in 1997 and 48 per cent in 2000, nearly equalling boys' enrolment. In 2001 and, again, in 2003, 49.5 per cent of girls and 50.5 per cent of boys had been enrolled in primary schools. Enrolment figures in 2003 had been 3.6 million girls and 3.7 million boys. Primary school enrolment was promoted by programmes such as the Forum for African Women Educationists Girl Child Education Strategy and Complementary Opportunities for Primary Education (COPE). An Alternative Basic Education (ABEK) programme had increased school enrolment of nomadic Karimojong children from 5,500 in 1997 to its current level of 9,873.

Rights to life (art. 6 of the Covenant)

20. **Mr. Nsalasatta** (Uganda), referring to question 12 on the list of issues, said that the Uganda Law Reform Commission had proposed an amendment to the Penal Code that would abolish the death sentence for defilement. Capital punishment for that offence, defined as sexual intercourse with a girl under 18 years of age, had been instituted at the height of the HIV/AIDS crisis in the early 1990s. The findings of a Uganda Law Reform Commission national survey on the imposition of the death sentence for sexual offences, including defilement, had ranged from retention of the death penalty for the sexual abuse of children under 10 years of age and life imprisonment.

He pointed out that, while there had been 445 convictions for defilement, none had carried a death sentence.

21. Most aggravated robberies had involved the use of guns; about 65 per cent of those convicted had used, or threatened to use, a firearm. Aggravated robberies accounted for 27.3 per cent of all prisoners on death row. A total of 462 persons were still on death row, 441 males and 21 females. Of that total, 326 had been convicted for murder, 126 for aggravated robbery, 7 for treason, 2 for kidnapping and intent to murder and 1 for cowardice in action while in the service of the National Resistance Army. The most recent execution had taken place on 29 April 1999, when 28 prisoners had been executed.

22. With a view to abolishing the death penalty, his Government had established the Odoki Commission in 2000 to assess public opinion on the matter. The majority view at the time was that the death penalty should be retained for the most serious crimes, such as murder, aggravated robbery, rape and defilement. The Constitutional Review Commission was currently considering appeals by certain sectors of society, including the Uganda prison service, for abolition of the death sentence. A group of advocates was also challenging the death penalty in the Constitutional Court (Kigala Suzan and others v. Attorney-General of Uganda).

23. **Mr. Ssonko** (Uganda), referring to question 13 on the list of issues, said that the allegations of extrajudicial executions were completely false. The Uganda People's Defence Forces operated under very stringent laws, particularly in areas like northern Uganda. Those laws left no room for such extrajudicial executions to be carried out with impunity. An army officer accused of committing a service offence was thoroughly investigated and, if sufficient evidence could be gathered, tried under the military judicial system.

24. **The Chairperson** said that, although some of the delegation's responses had been brief, he was certain that a fruitful discussion would ensue and clarify any remaining questions.

25. **Mr. Shearer** agreed with the Chairperson that the responses had been brief, particularly to questions 1 to 4 on the list of issues. With regard to question 1, it would be helpful if the delegation could specify those cases in which the Uganda Human Rights Commission had invoked provisions of the Covenant. Had the Covenant been cited in the ordinary domestic courts, where its effect was most likely to be felt at the grass-roots level, and, if not, did that signal a need for further education in the judiciary and the legal profession? In addition, he would appreciate information on torture cases in addition to what was given in paragraph 148 of the report.

26. Referring to question 2 on the list of issues, he asked whether the Human Rights Tribunal referred to in the State party's reply was actually the Uganda Human Rights Commission. Neither the 1997 Uganda Human Rights Commission Act nor the Constitution seemed to authorize the Commission to function as a court that actually heard complaints. He would appreciate clarification of the State party inclusion of suspected rebel activities in its list of human rights violations. The execution ordered by the Board of Inquiry in the murder of Irish priest Declan O'Toole was surprising in view of the delegation's assertion that no executions had been carried out in Uganda since 1999. Was the Board of Inquiry that had imposed the sentence a military court, and could a pardon or appeal be sought in military convictions?

27. Referring to question 3 on the list of issues, he said that he would appreciate further details on how the Chain Linked Initiative would help to expedite trials.

28. Lastly, referring to question 4, he asked whether the 1986 Commission of Inquiry still existed or had been superseded by the Uganda Human Rights Commission.

29. **Mr. Scheinin**, noting with satisfaction the broad mandate of the Uganda Human Rights Commission, including its judiciary powers, requested clarification of its degree of independence from the executive branch, considering that the Attorney-General was a member of the Commission and could attend its meetings.

30. Referring to question 6, he enquired whether all elements of what could be regarded as an act of terror were accurately defined in Ugandan legislation, and whether they were specific enough to qualify as *nullem crimen* under article 15 of the Covenant. It would also be useful to know the criteria for determining membership in a terrorist organization (short of the commission of a terrorist crime).

31. Turning to question 8 and the extent to which traditional practices impeded implementation of the Covenant, he asked why the Domestic Relations Bill before Parliament did not take a firmer approach towards outlawing polygamy. Referring to question 10, he said that it would also be interesting to see whether the Domestic Relations Bill would have any impact on the problem of female genital mutilation, which remained widespread in certain parts of Uganda. More generally, he wondered whether the practice was banned by criminal legislation or the State party relied merely on education and advocacy to combat it.

32. Referring to question 13, he requested the delegation to confirm whether there was a trend towards increased prosecution of crimes punishable by the death sentence, as some NGOs were alleging. It would be crucial to know which crimes carried a mandatory death sentence with no alternative, which, in the Committee's view, constituted arbitrary deprivation of life. While the delegation denied allegations of extrajudicial executions in northern Uganda, it should nonetheless clarify whether extrajudicial executions had ever been carried out within the State party's territory, particularly by the Lord's Resistance Army. According to information provided by NGOs, government authorities had been responsible for extrajudicial executions as well. In that connection, he enquired whether any extrajudicial executions had taken place in the raid of Gulu Prison on 16 September 2002, and about the shoot-on-sight policy declared under Operation Wembley in July and August 2002. Had law enforcement officers resorted to the deadly use of weapons before bringing charges? Lastly, with regard to the right to life, he would appreciate updated information on the coverage of retroviral treatment for HIV/AIDS patients in the context of the World Health Organization's "3 by 5 Initiative" (3 million people living with HIV/AIDS by 2005).

33. **Mr. Glèlè Ahanhanzo** expressed concern about the slowness of the justice system in Uganda, especially given the increasing crime rate, the imposition of hard labour on all detainees, including those who should be exempt and with the lack of progress in the strengthening of democracy and political life. He requested information about the nature and functions of the Uganda Human Rights Commission: he enquired for example, whether it had real judicial powers. He also would like information about its activities since its establishment, including the types of violation it heard, in particular, violation of the right to health care for those suffering from HIV/AIDS and human rights violations by the security forces. He also wanted to know the nature of the relationship between the Commission and the legal authorities.

34. More details would be welcome on the work of the Amnesty Commission created by the Amnesty Act of 2000, especially with regard to the Lord's Resistance Army (LRA) and the Allied Democratic Front (ADF). He also requested information on the number of prosecutions of cases involving the death penalty and their outcomes. In that context, he noted that persons sentenced to death often spent intolerably long periods on death row, for example Mr. Abdullah Nassur, who had been pardoned after serving 20 years on death row.

35. **Mr. Bhagwati** wondered whether the Human Rights Commission had powers equivalent to a court or simply served in an advisory role. He would like information on the number of complaints it had reviewed, the nature of those complaints and any action taken. He asked whether complainants had a right to a hearing before the Commission and whether the Commission had the power to order compensation and remedy a situation created where there had been a human rights violation on the part of a State official. He expressed concern about persistent reports of the use of torture by the police Violent Crime Crack Unit and wondered what steps were being taken to eliminate that practice, in accordance with article 7 of the Covenant.

36. Noting the large number of persons living with HIV/AIDS, he requested information on steps the State party was taking to ensure that they had access to anti-retroviral drugs, which were quite expensive. It was gratifying that there had been no executions of persons sentenced to death since 1999 but he found it intolerable to allow prisoners to languish in death row year after year; he asked what was the average time spent by a prisoner on death row. Since no one had in fact been executed for a number of years, he urged the State party to abolish the death penalty.

37. He would appreciate more statistical data on the representation of women in the judiciary, including the Appeals Courts and the Supreme Court, the legal profession in general and the civil service, as well as

information on how the members of the higher courts were appointed. He wondered if there were any checks or balances on the Government's power to make such appointments and whether they were made or reviewed by an independent body. Additionally, he wanted to know the length of the term of office of judges, whether they could be removed before the end of their term and if so, how, and in general what safeguards existed to protect the integrity of the judicial system.

38. **Mr. Yalden** said that the Human Rights Commission, on paper at least, had extensive powers, but requested more detailed information on its work. The report on cases heard provided during the delegation's oral responses to the list of issues had included mostly military and political cases; he wondered if cases of a different nature also came before the Commission. It would be useful for the Committee to see a copy of the annual report which the Commission was required to submit to Parliament. In general, the State party should provide more information on the procedures and programmes mentioned in its periodic report.

39. **Ms. Wedgwood** noted that article 33(f) of the Ugandan Constitution prohibited laws, cultures, customs or traditions which were against the dignity, welfare or interest of women. She therefore wondered what actions other than awareness-raising activities, including prosecutions, had been taken to combat the practice of female genital mutilation. She also recalled that it was the position of the Committee that a State party's obligations under the Covenant also applied to actions by its military forces in areas under their control and wondered whether there was any domestic mechanism to investigate reports of civilian casualties resulting from actions by the Ugandan military in the Democratic Republic of the Congo. Finally, noting that the activities of the Lord's Resistance Army had been referred to the International Criminal Court, she wondered why domestic institutions were unable to deal with that situation.

40. **Mr. Ando** requested more information on domestic violence and female genital mutilation. He expressed surprise, for example, that in its oral responses (question 9), the delegation had stated that the media, affluence and co-habitation contributed to domestic violence. He welcomed the development of the National Strategy on Gender-based Violations and requested details on the role of the police and the work of the Family Protection Unit, in particular in promoting reconciliation between the parties involved. With regard to female genital mutilation (question 10) he again wondered how poverty could be a contributing factor and requested more information on efforts to provide financial incentives for those who abandoned the practice.

41. **Sir Nigel Rodley** requested information on the number of death sentences and executions carried out since 1999 within the military justice system. He expressed concern at the use of summary court martial and inquired about the legal status of the inquiry into field court martials which had followed the killing of Father O'Toole and two other persons. He asked how the lack of appeals procedure and court-imposed capital punishment could be reconciled with article 6 of the Covenant on the right to life and article 14, paragraph 5, of the Covenant on the right to judicial review. He was concerned in particular by the inquiry's finding that constitutional guarantees were not applicable to field court martials.

The meeting was suspended at 5.10 p.m. and resumed at 5.30 p.m.

42. **Mr. Byamukama** (Uganda) said that in its 2001 report, entitled "Protectors or Pretenders?", the Human Rights Watch had cited the Uganda Human Rights Commission as one of the most effective human rights bodies on the African continent. On pages 24 and 25 of the delegation's replies to the Committee's list of issues, there was a list of complaints heard by the Uganda Human Rights Commission and in most of those cases the Covenant or the Committee itself had been mentioned. The Commission was not just an advisory body: it received complaints, undertook inquiries into cases and ordered compensation. The Commission's powers were derived from article 53 of the Constitution. It had replaced the Commission of Enquiry into Human Rights Violations. The Human Rights Commission was an independent body, whose members were appointed by the President and approved by Parliament. While members of the Commission served for six years, the tenure of the appointing authority was only five years.

43. The Human Rights Commission had quasi-judicial powers, as provided in the Constitution. However, there was no conflict between national legal bodies and the Commission because article 52 of the Constitution gave the Commission a different mandate from other constitutional bodies. The Commission had

the function of a tribunal, but it also provided mediation and conciliation services. Those services were free and were open to the most disadvantaged citizens.. In cases where the Commission had no jurisdiction over the complaint, it referred it to the competent body.

44. **Ms. Zaale** (Uganda) said that article 50 of the Constitution gave courts the right to hear complaints of human rights violations and the Covenant had occasionally been invoked by domestic tribunals. On question 8 of the list of issues (female genital mutilation), he noted that article 37 of the Constitution stated that every individual had the right to belong to or to practise any cul.ure or creed, although it was important to understand that female genital mutilation was not widely practised in Uganda. Article 33, paragraph 6, on the other hand, prohibited the practice of any cultures or laws that affected the welfare or status of women. The Domestic Relations Bill addressed the practice of female genital mutilation, in an effort to resolve the problem, given those seemingly contradictory provisions of the Constitution. The Government had decided to embark upon a programme of sensitization before abolishing the practice altogether. Furthermore, article 28, paragraph 7, of the Constitution stated that an individual could not be convicted of an act that did not constitute a criminal offence at the time it took place. Thus, female genital mutilation could not be considered a criminal offence since the Penal Code did not recognize the practice. The Government would take steps to rectify that, anachronism.

45. **Mr. Kamya** (Uganda) said that Operation Wembley was implemented in the wake of a period of violent crime, during which 48 people were killed. As provided in article 212, the police called on other national agencies to help them reduce the level of crime. It was because the suspects were so violent that the police response required the use of live ammunition, although no state of emergency was declared. The force used by the police was proportionate to the force it encountered. The operation's "shoot on sight" policy gave police the power to shoot an individual who did not surrender; it was considered a form of self-defence. However, those who surrendered could not be denied the right to a fair trial in the courts.

46. In response to an outcry from civil society, the operation was placed under full police control and the Violent Crime Crack Unit was established, in which any officer suspected of engaging in torture would be brought before the courts or sent to a police disciplinary court. Domestic violence was being dealt with by the special Childcare and Family Protection Unit. Members of that unit were trained in counselling and mediation and taught to handle sensitive issues. Although many wives reported crimes of domestic violence to the police, they often withdrew the complaint because the husband was the family provider. However, if abuse persisted and threatened the life of the woman, he would be taken to court.

47. **Mr. Kakooza** (Uganda) said that the Domestic Relations Bill had established a series of criteria governing polygamy. The man must prove that he was able to maintain all the wives financially, provide separate homes for them, afford them equal emotional and sexual treatment and he must seek the consent of his other wives. Those provisions made polygamy almost impossible. With regard to the steps the Government was taking to deal with HIV, he pointed out that the Government was applying for the licences of the drugs to treat HIV. In accordance with World Trade Organization regulations, those drugs could then be manufactured in Uganda. The United States Government had also provided assistance and HIV drugs were already practically free.

The meeting rose at 6 p.m.